

Introduced by Senator Wyland

January 27, 2010

An act to amend Sections 226.7 and 512 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 908, as introduced, Wyland. Meal and rest periods: exceptions.

Existing law prohibits, with specified exceptions, an employer from requiring any employee to work during a meal or rest period mandated by an applicable order of the Industrial Welfare Commission. Existing law requires, with specified exceptions, employers to provide meal and rest periods to employees during work periods of specified duration.

This bill would exempt from these provisions an employee in the transportation industry whose work places him or her inside an armored car in shifts during a workday.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 226.7 of the Labor Code is amended to
- 2 read:
- 3 226.7. (a) No employer shall require any employee to work
- 4 during any meal or rest period mandated by an applicable order
- 5 of the Industrial Welfare Commission.
- 6 (b) If an employer fails to provide an employee a meal period
- 7 or rest period in accordance with an applicable order of the
- 8 Industrial Welfare Commission, the employer shall pay the
- 9 employee one additional hour of pay at the employee's regular

1 rate of compensation for each work day that the meal or rest period
2 is not provided.

3 *(c) Subdivisions (a) and (b) do not apply to an employee in the*
4 *transportation industry whose work places him or her inside an*
5 *armored car in shifts during a workday.*

6 SEC. 2. Section 512 of the Labor Code is amended to read:

7 512. (a) An employer may not employ an employee for a work
8 period of more than five hours per day without providing the
9 employee with a meal period of not less than 30 minutes, except
10 that if the total work period per day of the employee is no more
11 than six hours, the meal period may be waived by mutual consent
12 of both the employer and employee. An employer may not employ
13 an employee for a work period of more than 10 hours per day
14 without providing the employee with a second meal period of not
15 less than 30 minutes, except that if the total hours worked is no
16 more than 12 hours, the second meal period may be waived by
17 mutual consent of the employer and the employee only if the first
18 meal period was not waived.

19 (b) Notwithstanding subdivision (a), the Industrial Welfare
20 Commission may adopt a working condition order permitting a
21 meal period to commence after six hours of work if the commission
22 determines that the order is consistent with the health and welfare
23 of the affected employees.

24 (c) Subdivision (a) does not apply to an employee in the
25 wholesale baking industry who is subject to an Industrial Welfare
26 Commission wage order and who is covered by a valid collective
27 bargaining agreement that provides for a 35-hour workweek
28 consisting of five seven-hour days, payment of 1 and ½ the regular
29 rate of pay for time worked in excess of seven hours per day, and
30 a rest period of not less than 10 minutes every two hours.

31 *(d) Subdivision (a) does not apply to an employee in the*
32 *transportation industry whose work places him or her inside an*
33 *armored car in shifts during a workday.*

34 ~~(d)~~

35 (e) If an employee in the motion picture industry or the
36 broadcasting industry, as those industries are defined in Industrial
37 Welfare Commission Wage Orders 11 and 12, is covered by a
38 valid collective bargaining agreement that provides for meal
39 periods and includes a monetary remedy if the employee does not
40 receive a meal period required by the agreement, then the terms,

1 conditions, and remedies of the agreement pertaining to meal
2 periods apply in lieu of the applicable provisions pertaining to
3 meal periods of subdivision (a) of this section, Section 226.7, and
4 Industrial Welfare Commission Wage Orders 11 and 12.

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